

Message Text

CONFIDENTIAL

PAGE 01 CARACA 11078 01 OF 02 241352Z

43

ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 /026 W

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FM AMEMBASSY CARACAS

TO SECSTATE WASHDC IMMEDIATE 643

C O N F I D E N T I A L SECTION 1 OF 2 CARACAS 11078

EXDIS

E.O. 11652: GDS

TAGS: ENRG, VE, PFOR

SUBJECT: PETROLEUM REVERSION - REPRESENTATIONS TO THE MINISTER
OF MINES AND HYDROCARBONS AND TO THE PRESIDENT OF PETROVEN

REF: A. STATE 241105 B. STATE 250765 C. CARACAS 10879

1. BEGIN SUMMARY: THE MINISTER OF MINES TOLD ME THAT THE GOV
WOULD PROVIDE SOME RELIEF THROUGH TAX DEDUCTIONS TO THE COM-
PANIES PENALIZED BY DRAINAGE DEDUCTIONS AND UNAMORTIZED
CONCESSION PAYMENTS. HE PLANS A MORE RAPID LIQUIDATION OF THE
GUARANTY FUND. THE MINISTER WAS FIRM ON THE NECESSITY FOR A
SLIDING SCALE OF TECHNICAL ASSISTANCE FEES. HE INDICATED THAT
THE COMPANIES WILL BE ALLOWED TO ENTER CERTAIN KINDS OF RESER-
VATIONS ON ACCEPTING THE COMPENSATION OFFERS BUT DID NOT SPECIFY
HOW THE GOV WILL HANDLE CASES IN WHICH THE COMPANIES FAIL TO
RESPOND OR RESPOND CONDITIONALLY ON OCTOBER 28. IN REPLYING TO
THE SAME PRESENTATION, HOWEVER, THE PRESIDENT OF PETROVEN
EMPHASIZED TO ME THE ADDITIONAL NEGOTIATING TIME BEYOND
OCTOBER 28 THAT THE LAW PROVIDES. END SUMMARY

2. I MET ALONE AND AS SCHEDULED WITH MINISTER OF MINES VALENTIN
HERNANDEZ THE AFTERNOON OF OCTOBER 22. I COVERED FOR HIM THE
POINTS PREVIOUSLY MADE TO THE PRESIDENT AND DREW ON REF B TO
REINFORCE OUR STATEMENTS ABOUT THE APPARENT INEQUITIES ARISING
FROM THE NATIONALIZATION LAW'S PROVISIONS ON AMORTIZATION OF
CONCESSION BONUSES, DRAINAGE, TERMS AND CONDITIONS OF THE BONDS
AND THE WORKING OF THE GUARANTY FUND.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 CARACA 11078 01 OF 02 241352Z

3. HERNANDEZ SAID THE PRESIDENT HAD BRIEFED HIM IN FULL ON OUR CONVERSATION. THE MINISTER WAS NOT OF THE OPINION THAT THE SMALLER PRODUCERS HAD BEEN GIVEN INSUFFICIENT ATTENTION. IN HIS VIEW, HE AND HIS COLLEAGUES HAD EXAMINED THEIR PROBLEMS CLOSELY AND WERE MAKING EVERY EFFORT TO ATTEND TO THEM WITH CARE. THE MINISTER EXPRESSED HIS OPINION THAT THE NEGOTIATIONS HAD BEEN AND WERE BEING CONDUCTED FROM THE VENEZUELAN SIDE IN A MANNER THAT WOULD PROVE FULLY "JUSTIFIABLE" AT THE END OF THE PROCESS. I EMPHASIZED THAT WHEN I SPOKE OF THE POSSIBILITY OF CHARGES OF DISCRIMINATION I HAD IN MIND THE EFFECTS OF THE WORKINGS OF THE LAW IN INDIVIDUAL CASES, NOT ANY IDEA THAT THE MINISTER WAS NOT APPLYING THE LAW AS IT WAS WRITTEN.

4. HERNANDEZ COMMENTED AS FOLLOWS ON THE SPECIFIC AREAS OF CONCERN:

(A) AMORTIZATION OF CONCESSION BONUSES. THE GOV RECOGNIZES THAT THE LAW SEVERELY PENALIZES AMOCO AND OCCIDENTAL IN PARTICULAR. (THE LATTER, HE COMMENTED, HAS SPENT "OVER 200 MILLION BOLIVARES IN VENEZUELA AND TAKEN OUT NOT ONE CENT.") HERNANDEZ SAID THAT AMOCO WOULD BE GIVEN THE OPPORTUNITY NEXT YEAR TO RECOUP SOME OF THESE LOSSES THROUGH THE "FISCAL PROCESS." OCCIDENTAL, FOR OBVIOUS REASONS, WOULD HAVE TO TAKE ITS CHANCES IN COURT.

(B) DRAINAGE. THE COMPANIES AFFECTED BY THIS MEASURE WILL ALSO BE ABLE TO OBTAIN "REIMBURSEMENT" THROUGH TAX DEDUCTIONS.

(C) GUARANTY FUND. THE MINISTRY PLANS TO LIQUIDATE THE FUND IN ONE YEAR AND THE PRESIDENT HAS PERSONALLY APPROVED THAT INTENTION.

(D) FEES FOR TECHNICAL SERVICES. LONG STUDY WAS GIVEN TO THIS QUESTION. THE GOV SIMPLY CANNOT "JUSTIFY" THE SAME LEVEL OF PER-BARREL-FEE FOR COMPANIES THAT CAN BE EXPECTED TO PROVIDE MINIMAL TECHNOLOGICAL SUPPORT AS FOR THOSE THAT WILL BE SUPPLYING SIGNIFICANT RESOURCES. HERNANDEZ ASSERTED, HOWEVER, THAT ALL THE COMPANIES WOULD PROFIT FROM THE ALLEGEDLY CONSIDERABLE SPREAD IN ALL CATEGORIES BETWEEN THE FEE AND COST OF THE

CONFIDENTIAL

PAGE 03 CARACA 11078 01 OF 02 241352Z

SERVICES RENDERED. (COMMENT: HE WAS TALKING HERE, AS WAS THE PRESIDENT, OF PROFITS TO BE MADE THROUGH A CONTINUING RELATIONSHIP, NOT OF COMPENSATION FOR NATIONALIZATION.)

CONFIDENTIAL

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CONFIDENTIAL

PAGE 01 CARACA 11078 02 OF 02 241414Z

43

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C O N F I D E N T I A L SECTION 2 OF 2 CARACAS 11078

EXDIS

5. THE MINISTER HAD NO COMMENT TO OFFER ON THE QUESTION OF THE TERMS AND CONDITIONS OF THE BONDS. HE DID SAY THAT HE RECOGNIZED THE PRECEDENT PROBLEM A NUMBER OF COMPANIES HAVE IN CONSIDERING HOW WHAT HAPPENS HERE WILL AFFECT THEIR OPERATIONS ELSEWHERE. THE GOV HAS TRIED TO ACCOMMODATE THIS CONCERN. ON A PARTICULARLY IMPORTANT POINT, HE SAID, THE COMPANIES WILL NOT BE FORCED TO ACKNOWLEDGE THE "PRINCIPLE OF DRAINAGE." (SEE CARACAS 10727 FOR GULF OIL COMPANY'S APPROACH TO THIS PROBLEM.)

6. HERNANDEZ THEN SPOKE AT SOME LENGTH ABOUT HIS VIEW OF THE FUTURE VENEZUELAN RELATIONSHIP WITH THE COMPANIES. HE SAID THE FORMULA WORKED OUT IN THE NATIONALIZATION PROCESS OFFERS THE COMPANIES THE OPPORTUNITY FOR MANY YEARS OF PROFITABLE ASSOCIATION WITH THIS COUNTRY. FURTHER, THE NEXT STAGE OF PETROLEUM DEVELOPMENT - THE ORINOCO TAR BELT - IS CLOSE AT HAND. ACCORDING TO HERNANDEZ, THE MINISTRY PLANS TO BEGIN NEGOTIATIONS NEXT MARCH WITH PERHAPS FOUR COMPANIES (HE MENTIONED EXXON AND AMOCO AS HAVING EXPRESSED PARTICULAR INTEREST IN THE TAR BELT) FOR A CONSOLIDATED JOINT VNTURE TO BEGIN EXPERIMENTAL EXPLOITATION OF THIS RICH RESOURCE ON A LARGE SCALE.

7. I FOLLOWED BY REVERTING TO MY THEME. I URGED THE MINISTER TO EXAMINE THE CASE OF EACH OIL COMPANY IN DETAIL TO IDENTIFY INEQUITIES AND TAKE WHATEVER CORRECTIVE ACTION MAY BE POSSIBLE. I CONCLUDED THAT WE BOTH WANT TO AVOID THE DIFFICULTIES THAT WOULD ARISE IN THE RELATIONSHIP BETWEEN OUR TWO COUNTRIES IF A COMPANY WERE TO CHARGE UNFAIR TREATMENT AND TURN TO THE USG FOR ASSISTANCE.

CONFIDENTIAL

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PAGE 02 CARACA 11078 02 OF 02 241414Z

8. AT DINNER THE EVENING OF OCTOBER 22 I HAD THE OPPORTUNITY TO GO OVER THE SAME GROUND WITH GENERAL ALFONZO RAVARD, PRESIDENT OF PETROVEN. HE WAS AWARE OF MY CONVERSATION WITH VALENTIN HERNANDEZ. ON THE BONDS, ALFONZO SAID THAT HE AND HERNANDEZ HAD BEEN MAKING EVERY EFFORT AGAINST THE STRONG OPPOSITION OF THE FINANCE MINISTRY TO IMPROVE THE TERMS AND CONDITIONS. HE CONFIRMED THE MINISTER'S STATEMENT THAT BEGINNING NEXT YEAR THERE WOULD BE THE OPPORTUNITY FOR MORE LIBERAL TAX DEDUCTIONS IN SOME CASES. WITH RESPECT TO THE QUITCLAIM, ALFONZO NOTED THAT THE LAW PROVIDES A MORE EXTENDED PERIOD FOR NEGOTIATIONS IF A COMPANY SO CHOOSES. THESE COULD PROCEED EVEN AFTER A COMPANY HAS BEEN TAKEN TO COURT. ALFONZO PROFESSED TO UNDERSTAND MY CONCERNS ABOUT THE DIFFICULTIES INEQUITABLE TREATMENT COULD PRODUCE IN THE RELATIONS BETWEEN OUR TWO COUNTRIES. HE SAID THAT HE AND HERNANDEZ WERE DOING THEIR BEST TO AVOID ANY SUCH PROBLEM.

9. COMMENT: HERNANDEZ AND ALFONZO APPARENTLY CONTEMPLATE ALLOWING THE COMPANIES TO WRITE OFF DRAINAGE CHARGES AND UNAMORTIZED CONCESSION FEES AGAINST THEIR 1975 TAXES (DUE NEXT MARCH). (WE ARE TOLD THAT IN THE CASE OF SUN OIL, FOR EXAMPLE, SUCH A PROCEDURE WOULD PERMIT RECOVERY OF 70 PERCENT OF THE COMPANY'S DRAINAGE DEDUCTIONS.) PRESUMABLY, THE COMPANIES AFFECTED WOULD SIMPLY HAVE TO TAKE THE MINISTER'S WORD ON THAT PROSPECT IN MOVING AHEAD TO ACCEPT THE COMPENSATION OFFERS. ANY FORMAL COMMITMENT WOULD RISK A POSSIBLY FATAL POLITICAL CHALLENGE.

10. THE MINISTER'S REMARK ON THE "CONCEPT" OF DRAINAGE IS IN LINE WITH REPORTS WE HAVE HAD THAT THE COMPANIES WILL BE PERMITTED TO DENY FORMALLY THAT "DRAINAGE" HAS TAKEN PLACE--ALTHOUGH THE DEDUCTIONS WILL STAND. AS FOR THE QUITCLAIM, AT LEAST TWO COMPANIES (GULF AND SUN) ARE CONTEMPLATING CONDITIONAL RESPONSES ON OCTOBER 28. FURTHER, THE LAW CLEARLY PROVIDES THE POSSIBILITY FOR ANOTHER 30 DAYS OF NEGOTIATIONS AND I HOPE OUR DEMARCHES WILL STRENGTHEN WHAT APPEARS TO BE THE GOV'S INCLINATION TO GIVE THAT TIME. AS ALWAYS, MUCH WILL DEPEND ON CREOLE. ROBERT DOLPH TOLD ME TODAY THAT HIS COMPANY WILL PROBABLY NOT RESPOND UNTIL OCTOBER 28. HIS ANSWER THEN WILL HAVE A CONSIDERABLE EFFECT ON HOW THE REST OF THE CASES PLAY OUT.

11. THE THREE MEN WHO MAKE THE DECISIONS ON NATIONALIZATION ARE CONFIDENTIAL

CONFIDENTIAL

PAGE 03 CARACA 11078 02 OF 02 241414Z

NOW FULLY AWARE OF OUR CONCERNS. WE MAY HAVE HAD SOME EFFECT AND WE HAVE SURELY ESTABLISHED A RECORD FOR LATER USE IF THAT BECOMES NECESSARY. THE EMBASSY WILL KEEP AS CLOSE TRACK AS POSSIBLE OF DEVELOPMENTS BETWEEN NOW AND NEXT WEDNESDAY. I WILL BE PREPARED TO REMIND THE MINISTER AND/OR ALFONZO OF THEIR ASSURANCES OF GOOD INTENTIONS IF THE CIRCUMSTANCES SO REQUIRE.

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